UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

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|) | Civil Action No. 04-11522-WGY |
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AFFIDAVIT OF DAVID J. FINE

David J. Fine states under the penalties of perjury

- 1. am counsel for the plaintiff in this action. I submit this Affidavit in opposition to Defendant's Motion for Summary Judgment.
 - 2. am attaching as exhibits to this affidavit true copies of the following:

Exhibit 1 The Personnel Center's "Perf Mgmt - Steven Kincaid"

Memorandum, BA 111-115

Associate Counseling memorandum, marked as Kincaid Exhibit 2:

Exhibit 9

Performance Plan & Evaluation Form, marked as Kincaid Exhibit 3:

Exhibit 8

Exhibit 4: Overall Rating page, marked as Burroughs Exhibit 2

Exhibit 5: Excerpts from the Sheila Burroughs deposition

| Exhibit 6 | Excerpts from the Alec Kotopoulos deposition |
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| Exhibit 7 | Organizational Chart (BA 233) |
| Exhibit 8 | Excerpts from the Vipin Mayar deposition |
| Exhibit 9. | Excerpts from the Elizabeth Janak deposition |
| Exhibit 10: | "CAMR Turnover As of 8.11.03" table and graph (BA 17) |
| Exhibit 11 | 8/18/03 e-mails from Janak to Kotopoulos and Kotopoulos to Janak (BA 116) |
| Exhibit 12 | Expert Report of Joel P. Wiesen, Ph.D |
| Exhibit 13 | Bank's Sexual Harassment and Discrimination Policy (BA 24) |
| Exhibit 14: | Letter dated 4/25/03 from Deborah Martin Norcross to J Steele Alphin |
| Exhibit 15 | Letter dated 4/30/03 from Eric A. Montgomery to Deborah Martin Norcross |
| Exhibit 16: | Letter dated 5/20/03 from Deborah Martin Norcross to Eric A. Montgomery |
| Exhibit 17 | Excerpts from the Eric Montgomery deposition |
| Exhibit 18: | Letter dated 9/8/03 from Mark C. Noble to Equal Employment Opportunity Commission |
| Exhibit 19 | Excerpts from the Steven Kincaid deposition |
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Signed under the penalties of perjury this 28th day of November 2005

David J. Fine

Certificate of Service

I hereby certify that I have this day served the foregoing by causing true copies thereof to be transmitted electronically and mailed, first class postage prepaid, to Siobhan M. Sweeney, Esq., Edwards & Angell, LLP, 101 Federal Street, Boston, Massachusetts 02110 and Mark A. Pogue, Esq., Edwards & Angell, LLP, 2800 Financial Plaza, Providence, Rhode Island, 02903, attorneys for defendant.

Dated: November 28, 2005